



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Louis Levine  
Senior Vice President  
NGP VAN, Inc.  
1101 15th Street, NW, Suite 500  
Washington, DC 20005

MAR 20 2018

RE: MUR 7131  
NGP VAN, Inc.

Dear Mr. Levine:

On September 1, 2016, the Federal Election Commission notified NGP VAN, Inc. (NGP VAN") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On October 20, 2016, the Commission notified NGP VAN of a supplemental complaint in this matter. Copies of the complaint and supplemental complaint were provided to NGP VAN at that time. On March 6, 2018, the Commission found, on the basis of the information in the complaint and supplemental complaint, and information provided by NGP VAN, that there is no reason to believe that NGP VAN violated 52 U.S.C. § 30118(a). Accordingly, the Commission closed its file in this matter.

Documents related to this case will be placed on the public record within 30 days. See Disclosure of Certain Documents in Enforcement and Other Matters. 81 Fed. Reg. 50,702 (August 2, 2016). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

Mark Allen  
Assistant General Counsel

Enclosure  
Factual and Legal Analysis

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENT: NGP VAN, Inc.

MUR 7131

### I. INTRODUCTION

The Complainant in this matter filed a supplement to the Complaint, which alleges that NGP VAN, Inc. ("NGP VAN") credited services to Senior Votes Count ("SVC"), a non-connected committee, and Carol Shea-Porter for Congress ("Committee"), the principal campaign committee of Representative Carol Shea-Porter, a candidate for reelection in the First Congressional District of New Hampshire in 2014, resulting in in-kind contributions. NGP VAN denies that it made in-kind contributions to SVC and the Committee. For the reasons below, the Commission finds that there is no reason to believe that NGP VAN violated 52 U.S.C. § 30118(a) by making prohibited contributions.

### II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), defines "contribution" to include "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office."<sup>1</sup> "Anything of value" includes all in-kind contributions and, unless otherwise exempted, the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.<sup>2</sup>

<sup>1</sup> 52 U.S.C. § 30101(8)(A)(i).

<sup>2</sup> 11 C.F.R. § 100.52(d)(1).

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The Act and Commission regulations prohibit corporations from making contributions to a federal political committee (other than independent-expenditure-only political committees),<sup>3</sup> and a political committee is prohibited from knowingly accepting or receiving such contributions.<sup>4</sup>

Complainant alleges that NGP VAN, a software vendor that provided services to the Committee and SVC, did not collect payments from them.<sup>5</sup> NGP VAN asserts that it did not forgive debts to SVC.<sup>6</sup> NGP VAN provided documents showing it adjusted SVC's account \$550 to correct billing errors.<sup>7</sup> Regarding the allegation that NGP VAN also provided "'credits' to outstanding debt on the [Committee's] filings," the Supplemental Complaint provides no information or description of such credits. During the 2014 election cycle, the Committee reported payments to NGP VAN for software services, but there is no information regarding credits NGP VAN extended to the Committee. NGP VAN asserts there is no record of any debt the Committee owes,<sup>8</sup> the Committee has disclosed none, and we have no information to the contrary. Thus, NGP VAN does not appear to have made any prohibited in-kind contributions to the Committee. Therefore, the Commission finds that there is no reason to believe that NGP VAN, Inc. violated 52 U.S.C. § 30118(a).

<sup>3</sup> See, e.g., Advisory Op. 2010-11 (Commonsense Ten) (citing *Citizens United v. FEC*, 558 U.S. 310, 359 (2010)); *Carey v. FEC*, 791 F. Supp. 2d 121 (D.D.C. 2011).

<sup>4</sup> 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b).

<sup>5</sup> Suppl. Compl. at 1. The Supplemental Complaint states that the issue of NGP VAN "was not thoroughly addressed" in the Complaint, and alleges that NGP VAN made in-kind contributions to SVC and the Committee by forgiving certain debts. *Id.*

<sup>6</sup> NGP VAN Resp. to Suppl. Compl. at 1.

<sup>7</sup> *Id.* and attached Credit Memo.

<sup>8</sup> NGP VAN Resp. to Suppl. Compl. at 1.

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